

**EXHIBIT 6**

**REDACTED VERSION  
OF DOCUMENT  
SOUGHT TO BE SEALED**

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN FRANCISCO DIVISION

WAYMO LLC,

Plaintiff,

vs.

Case No.

UBER TECHNOLOGIES, INC.; 17-cv-00939-WHA

OTTOMOTTO, LLC; OTTO

TRUCKING LLC,

Defendants.

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CONFIDENTIAL

VIDEOTAPED DEPOSITION OF UBER TECHNOLOGIES, INC.

30(b)(6) REPRESENTATIVE - RANDY HAIMOVICI

San Francisco, California

Thursday, December 21, 2017

Volume I

REPORTED BY:

REBECCA L. ROMANO, RPR, CSR No. 12546

JOB NO. 2779670

PAGES 1 - 190

Page 19

1 A. Sure.

10:12:33

2 Q. Starting with the Nick Gicinto, what did  
3 you discuss with Nick Gicinto?

4 A. I spoke with Nick Gicinto about the use  
5 of nonattributable devices. He would call that  
6 misattributable devices.

10:12:42

7 Q. And so when you say "misattributable  
8 devices," you use that term interchangeably with  
9 "nonattributable devices"?

10 A. I do.

10:13:00

11 Q. Okay. And when you use that term,  
12 what -- what is your understanding of what term  
13 means?

14 A. Yeah, so those are devices that are used  
15 that can't be linked back to Uber. So by way of  
16 example of how Nick described it to me, if there's  
17 a physical threat to the company, and we want to  
18 investigate that physical threat, we want to be  
19 able to do that without having that investigation  
20 linked back to the company; and probably more --  
21 more importantly, the employees doing it, for  
22 safety reasons.

10:13:05

23 Q. And what -- what did you and Nick Gicinto  
24 discuss specifically about nonattributable devices?

25 A. Pretty much what I just told you. He

10:13:44

Page 20

1 gave me an example of how they are used. He 10:13:46  
2 described the purpose. And -- and mentioned that  
3 based on his knowledge, they were only used by  
4 people in the security department.

5 Q. When you say that you discussed with 10:14:04  
6 Mr. Gicinto how nonattributable devices are used,  
7 what did he say in terms of how they were used?

8 A. In the same way I just described.

9 Q. Okay. Nothing addition- -- nothing  
10 beyond what you've already -- 10:14:15

11 A. Not that I recall.

12 Q. Okay. And in terms of discussing the  
13 purpose of using nonattributable devices, did he  
14 say anything further than what you've already  
15 provided? 10:14:23

16 A. Not that I recall. It was just basically  
17 what I told you.

18 Q. You said you spoke with Eric Meyhofer?

19 A. I did.

20 Q. What you did and Eric Meyhofer discuss? 10:14:34

21 A. So Eric and I talked about use of  
22 nonattributable devices. And he confirmed that  
23 they are not used by ATG. As I'm sure you know,  
24 he's the head of ATG.

25 We talked about the use of ephemeral 10:14:47

Page 21

1 communications, and he confirmed that his use of 10:14:50  
2 ephemeral communications were limited to social  
3 reasons almost exclusively, but that there are  
4 times when he's talking about performance issues  
5 for employees, where he's used it, that he's never 10:15:03  
6 used ephemeral communications to discuss anything  
7 related to this case.

8 That he has an understanding of what and  
9 how the attorney-client privilege should be used.  
10 And he's adhered to the knowledge he was given and 10:15:18  
11 the training he was given.

12 Q. And in your conversations with  
13 Mr. Meyhofer, were you talking about his use  
14 specifically or ATG more generally?

15 A. His use specifically -- well, when you 10:15:33  
16 say "use," just tell me what you mean.

17 Q. So let me -- let me break it down.

18 A. Okay.

19 Q. So for -- for nonattributable devices,  
20 you said that Mr. Meyhofer told you that they're 10:15:42  
21 not used by anyone in ATG; is that right?

22 A. That's correct.

23 Q. Okay. When you were talking about  
24 ephemeral communications, did you discuss with  
25 Mr. Meyhofer whether they are used by others in ATG 10:15:50

Page 22

1 in addition to him?

10:15:56

2 A. We talked about his use of it. We talked  
3 about his knowledge of Levandowski's use of it, his  
4 communications with Travis. We did not go over  
5 everybody in ATG.

10:16:08

6 Q. Okay. So when you say that Mr. Meyhofer  
7 told you that nonattributable devices are not used  
8 by anyone in ATG, what -- what time frame does that  
9 cover? Is that for all time?

10 A. Yeah. Did not put any limitation on it.  
11 No time limitation. They have not been used.

10:16:26

12 Q. And then you said you discussed with him  
13 the use of ephemeral communications with  
14 Travis Kalanick; is that right?

15 A. Right.

10:16:42

16 Q. And what did he tell you about that?

17 A. That any communications he had with  
18 Travis Kalanick, what we are calling ephemeral  
19 communications, were purely and 100 percent social.

20 Q. And you said he also told you about  
21 ephemeral communications with Anthony Levandowski;  
22 is that right?

10:16:53

23 A. He did.

24 Q. What did he tell you about that?

25 A. He said it was mostly social, but there

10:17:03

Page 24

1 discussions about the current litigation, or would 10:18:06  
2 it also include sort of the underlying facts, for  
3 example, discussions about the acquisition of Otto?

4 A. I did not ask him specifically about the  
5 acquisition of Otto; but, in general, what he said 10:18:21  
6 is, he only used it for social reasons and to talk  
7 about employee issues, and for no other reason.

8 I followed up and said, "Did you talk  
9 about anything related to this case?" He said, no.

10 And I said, "Have you ever used ephemeral 10:18:37  
11 communications to discuss anything about  
12 competitors?" And he said, no.

13 Q. You said you also talked to Wendy Ray  
14 to --

15 A. I did. 10:18:53

16 Q. -- prepare for your testimony?

17 And Wendy Ray is an attorney at Morrison  
18 & Foerster; is that right?

19 A. That is correct.

20 Q. And what did you and Ms. -- and Ms. Ray 10:18:59  
21 discuss?

22 A. Yeah, so we talked about privilege review  
23 in this case pursuant to the document production.

24 And we talked about the collection of names of --

25 we talked about the -- the -- their efforts to 10:19:17

Page 25

1 collect -- identify people at the company that used 10:19:19  
2 ephemeral messaging.

3 Q. And what did Ms. Ray tell you about the  
4 privilege review in this case?

5 A. That the process was, when documents were 10:19:35  
6 collected, they were sent to Morrison & Foerster,  
7 and Morrison & Foerster reviewed those documents to  
8 determine whether they were privileged or not  
9 privileged. And that was Morrison & Foerster's  
10 responsibility. 10:19:49

11 Q. And did they review each document, or did  
12 they rely on, I guess, computer programs that --  
13 that might be able to exclude privilege  
14 information?

15 MR. BRILLE: Objection. Form. 10:20:02

16 THE DEPONENT: Okay. I didn't get into  
17 the specifics of how they did it.

18 Q. (By Ms. Roberts) Okay.

19 A. I just confirmed the fact that the  
20 responsibility of reviewing the document production 10:20:10  
21 and making privileged determinations was done by  
22 Morrison & Foerster.

23 Q. Okay. But you don't know the actual  
24 steps they took to go through that process?

25 A. I don't. 10:20:21



Page 28

1 A. You got it.

10:22:53

2 Q. So this is the list that you discussed  
3 with Ms. Ray?

4 A. That's correct.

5 Q. Okay. Other than privilege review in  
6 this case and the efforts to determine who at Uber  
7 uses ephemeral messaging, is there anything else  
8 that you discussed with Ms. Ray to prepare for your  
9 testimony today?

10:23:04

10 A. Not that I remember.

10:23:15

11 Q. You also identified Sidney Majalya as  
12 someone you spoke with?

13 A. I did.

14 Q. What did you and Mr. Majalya discuss?

15 A. I spoke with Sidney about whether, as  
16 somebody who works in compliance, it was reported  
17 to him that somebody misused the attorney-client  
18 privilege.

10:23:24

19 So, in other words, marking a document  
20 privileged that shouldn't be; and if that had been  
21 reported to him, what he would have done in  
22 response.

10:23:38

23 And Sidney said that -- that had not been  
24 reported to him. But that if it had been, that he  
25 would have taken whatever appropriate, you know,

10:23:51

Page 29

1 remediation was necessary, training or -- or 10:23:56  
2 otherwise.

3 Q. Is there anything else you discussed with  
4 Mr. Majalya?

5 A. Nope. That's what I remember. 10:24:09

6 Q. And so you -- you asked him if he'd ever  
7 received any reports of misuse of the  
8 attorney-client designation; is that right?

9 A. That's exactly what I asked him.

10 Q. And he said, no, he never received any 10:24:19  
11 such reports?

12 A. That is what he said.

13 Q. Okay. Did you discuss Mr. Jacobs's  
14 allegations with him?

15 A. I did not. 10:24:26

16 Q. Okay. So because Mr. Jacobs -- I am not  
17 sure, have you read Mr. Jacobs' --

18 A. I have.

19 Q. Okay. So Mr. Jacobs says that -- that  
20 employees at Uber misused the attorney-client 10:24:37  
21 privilege designation.

22 You are aware that he has alleged that?

23 MR. BRILLE: I'm going to object to form  
24 and scope. And I will note for the record that  
25 based on the topics of -- in the 30(b)(6), that we 10:24:47

Page 33

1 Q. You said she's in ER?

10:27:35

2 A. Employee relations.

3 Q. Employee relations?

4 A. Right.

5 Q. Okay. And you could not remember her

10:27:40

6 last name?

7 A. No, I know her last name. I just don't

8 want to --

9 Q. So you can't pronounce her last name?

10 Sorry. Sorry.

10:27:46

11 MR. BRILLE: You need to just slow down

12 for her.

13 THE DEPONENT: She's a friend of mine, so

14 I don't want to mispronounce it. But the

15 discussion with her was, you know, very identical

10:27:55

16 discussion I had with Sidney. And the results were

17 the same.

18 Q. (By Ms. Roberts) So you asked Pam if

19 she'd received any reports of misuse of the

20 attorney-client privilege designation?

10:28:10

21 A. That is correct. In essence.

22 Q. Okay. And did you limit the scope of

23 that to excluding the Jacobs letter?

24 A. Right.

25 Q. Okay. So you specifically limited the

10:28:20

Page 34

1 scope when you were talking to her? 10:28:24

2 A. Yes.

3 Q. Okay. And what did she say in response?

4 A. Same thing Sidney said. She's never

5 received any reports like that, that came 10:28:32

6 through -- that she had to investigate. So it

7 wasn't anything that had come to her for her to

8 take action on; but that if it did, she would --

9 you know, she would do the same thing Sidney did.

10 She would take whatever steps are 10:28:51

11 necessary to correct it, provide training, whatever

12 the course may be. And she mentioned that not as a

13 result of investigating that claim, but in her

14 work, if she saw somebody who was stating something

15 that was privileged when it was not, she would 10:29:06

16 correct that person based on the training she has.

17 Q. You said Pam is in employee relations; is  
18 that right?

19 A. That's correct.

20 Q. Is she an attorney? 10:29:23

21 A. She is not.

22 Q. Okay. Can you just explain for -- for

23 me -- Mr. Majalya is a compliance attorney; Pam is

24 in employee relations -- sort of what method,

25 reports of misuse of privilege would get escalated 10:29:35

Page 36

1           A.    We talked about document productions. We   10:30:36  
2    talked about privilege review. We talked about  
3    document retention.

4           Q.    Anything else?

5           A.    That's what I remember right now.           10:30:51

6           Q.    And who is Mr. Murray?

7           A.    He is our global head of ediscovery and  
8    information governance.

9           Q.    Is he an attorney?

10          A.    He is not.                                   10:31:03

11          Q.    But he works internally at Uber on  
12   ediscovery issues, is that --

13          A.    Ediscovery and information governance.

14          Q.    When you say "information governance,"  
15   what -- what do you mean by that?                   10:31:14

16          A.    I mean, the -- that's a broad question,  
17   but I'll give you a high-level broad answer.

18                I mean the way the company manages its  
19   information, all of it, everything.

20          Q.    You -- you said you discussed with           10:31:29  
21   Mr. Murray document production?

22          A.    I did.

23          Q.    Okay. What did you discuss about that?

24          A.    We talked about the process for privilege  
25   view. And he confirmed that when we're in           10:31:35

Page 37

1 litigation, and we have a document production, that 10:31:38  
2 the document production is sent to our outside  
3 counsel, and that the outside counsel is  
4 responsible for conducting a privilege review.

5 Q. You also listed privilege review as 10:31:51  
6 something that you discussed with -- with  
7 Mr. Murray.

8 Did you discuss anything else beyond what  
9 you just said?

10 A. No. 10:31:58

11 Q. Okay. And you said you discussed  
12 document retention with Mr. Murray.

13 What did you discuss about that?

14 A. I don't remember all of the conversation,  
15 but, in essence, what the document retention is for 10:32:07  
16 emails and documents, chat applications, you know,  
17 normally when people are on litigation hold, that's  
18 the essence -- it was the essence for our  
19 conversation.

20 Q. Anything other than document privilege 10:32:27  
21 review and document retention discussed with  
22 Mr. Murray?

23 A. Not that I remember.

24 Q. You also said you talked to Mia Mazza?

25 A. I did. 10:32:41

Page 48

1 Q. -- can you tell me what you did to 10:44:32  
2 prepare to testify on that topic?

3 A. Give me one second here.

4 Q. Sure.

5 A. I mean, it would be all the same things 10:44:43  
6 I've already identified to you with respect to the  
7 use of the attorney-client privilege.

8 I have talked to a lot of the same  
9 people, reviewed a lot of the same docs. And then,  
10 of course, just based on my own knowledge of 10:44:57  
11 company policies and procedures.

12 Q. Going back to the people you spoke with  
13 about attorney-client privilege, which included  
14 Mr. Majalya and Pam --

15 A. Uh-huh. 10:45:16

16 Q. -- why is it that you asked them about  
17 whether they were aware of any reports of misuse of  
18 the privilege designation?

19 A. Because they -- they are the two people I  
20 know in the company that if there was a report 10:45:26  
21 about the misuse of it, they are likely to be the  
22 ones that would investigate it.

23 So they are a good resource to know if  
24 this is something that is being reported and  
25 something that needs investigation. 10:45:37

Page 50

1 knowledge of reports of misuse of the 10:46:31  
2 attorney-client privilege designation?

3 A. I did not. But, like I said, I think,  
4 more than likely, that would go to those two  
5 individuals. 10:46:40

6 Q. Mr. Majalya isn't the only compliance  
7 attorney in the company; is that correct?

8 A. He's not.

9 Q. Okay. Is there some reason why you  
10 thought that it -- only speaking with him and not 10:46:54  
11 other compliance attorneys would be sufficient?

12 A. I did. Because he oversees compliance.  
13 He's in charge of compliance.

14 Q. Okay.

15 A. And the same applies to Pam. I mean, 10:47:05  
16 she's in charge of ER.

17 Q. Gotcha.

18 For Topic 3.3, you said to -- to prepare  
19 for it, you -- you talked to the same people and  
20 reviewed the same documents; is that correct? 10:47:26

21 A. In essence, yes, related to  
22 attorney-client privilege used. And, plus, my own  
23 knowledge of what happens at the company with  
24 respect to training on attorney-client privilege  
25 and policies. 10:47:40



Page 51

1 Q. And so, is there anything further that 10:47:49  
2 you did to prepare to testify on Topics 2, and 3.3  
3 that we haven't discussed already?

4 A. Not that I remember.

5 Q. You mentioned your awareness of the 10:48:02  
6 training that's done on attorney-client privilege?

7 A. I did.

8 Q. Okay. Can you tell me what -- what  
9 training is done?

10 A. So at a high level, when new employees 10:48:12  
11 are hired, they receive training on the  
12 attorney-client privilege, and then there's  
13 training that happens periodically throughout the  
14 year for different groups in the business.

15 Q. Who does the trainings? 10:48:33

16 A. Different people -- mostly, the people I  
17 know are all in the legal department. Many of  
18 those people are in my department. But different  
19 people do it.

20 Q. So let me break it down. 10:48:45

21 You said there's training for new hires?

22 A. Uh-huh. That's correct.

23 Q. Who is responsible for trainings for new  
24 hires?

25 A. I -- I don't know specifically who is 10:48:52

Page 52

1 responsible for it, but there's -- there is 10:48:54

2 training that goes on. It's not -- it's a video.

3 Q. Okay. And then you said there's periodic  
4 training?

5 A. That's correct. 10:49:09

6 Q. Okay. And the periodic training is for  
7 various different departments at different times?

8 A. That's right.

9 Q. Okay. And it's put on by somebody in  
10 legal at all times? 10:49:20

11 A. Typ- -- typically, a lawyer in legal. I  
12 would say almost always a lawyer in legal.

13 Q. And is there a particular group within  
14 legal that is responsible for that?

15 A. There's not. Not formally. But a lot of 10:49:34  
16 the times, people in my department do it.

17 Q. And when you say your department, you  
18 mean litigation?

19 A. I do.

20 Q. Okay. Have you ever done one of these 10:49:44  
21 trainings?

22 A. You know, I was scheduled to do one, and  
23 then it got canceled. And I'm scheduled to do one  
24 either in January or March. But others in my  
25 department have. And I participate in the 10:49:53

Page 53

1 preparation of the materials for the training. 10:49:57

2 Q. Are there -- is it the same materials  
3 that are used for trainings over and over, or do  
4 they get changed?

5 A. In essence, they are the same, you know. 10:50:13

6 In essence, they are the same. Sometimes there is  
7 tweaks to it for the particular audience that you  
8 are talking to. All right?

9 We are talking to nonlawyers, so we've  
10 got to try to present it in a way that, you know, 10:50:24  
11 will be palatable to them and -- and capture their  
12 attention. We want them to pay attention.

13 So nothing really in substance changes as  
14 far as, you know, what the goals of the training  
15 are. But little tweaks to the presentations are 10:50:37  
16 sometimes present.

17 Q. Is there -- are these periodic trainings  
18 given on any sort of routine basis?

19 A. I wouldn't call it routine. I would just  
20 say as needed. 10:50:59

21 Q. When you say "as needed," how is it  
22 determined that it is as needed?

23 A. It could be a variety of different ways.  
24 We could be asked. We -- and when I say "we," I  
25 mean we in the litigation department or people in 10:51:14

Page 54

1 legal. We could be asked. We could make a 10:51:16  
2 determination on our own that it should be done.

3 Those are the ways I know of.

4 Q. When the legal department is asked to do  
5 one of these periodic trainings about 10:51:32  
6 attorney-client privilege, is that because, you  
7 know, people need a refresher on how to do it  
8 properly?

9 A. I -- I don't recall why people have  
10 asked. I just know it's been asked for. I can't 10:51:41  
11 tell you what the reasons for it were. You know,  
12 the goals remain the same, so it's irrelevant to me  
13 whether somebody asks or whether we decide to  
14 affirmatively do it. The goal is the same.

15 Q. And when the legal department decides to 10:51:55  
16 affirmatively do it, is that because somebody in  
17 the legal department has noticed these nonlawyers  
18 kind of need more training? They -- they are not  
19 doing it right?

20 A. Well, the reason for it is this, right? 10:52:06  
21 And it's probably hard to get if you've -- you  
22 know, you are a lawyer. You've spent your life at  
23 a firm, but just -- just think about dealing with a  
24 company of mostly nonlawyers. They don't know  
25 anything about litigation. They don't know about 10:52:19

Page 55

1 discovery. They don't know probably what the 10:52:23  
2 attorney-client privilege means.

3 And we know. We have new people come to  
4 the company all the time. And so we will go out  
5 there periodically and just make sure we do the 10:52:32  
6 training because we want people to understand what  
7 the privilege is and make sure they are trained  
8 appropriately on it.

9 Q. So there -- you don't recall any of these  
10 periodic trainings being because of, like, a 10:52:44  
11 particular need to -- or identification of people  
12 not using the privilege correctly?

13 A. No, no.

14 Q. All right. Let's talk about ephemeral  
15 messaging in a little bit more detail. 10:53:03

16 A. Okay.

17 Q. So we'll -- we'll start with Exhibit 9726  
18 that you have.

19 A. Uh-huh.

20 Q. And Tab 1 is the personnel who have used 10:53:22  
21 Wickr or similar platform; is that right?

22 A. I'm there. Yup.

23 Q. And you've discussed this with Ms. Ray,  
24 correct?

25 A. I did. 10:53:36

Page 61

A. It would be platforms or chat apps,  
whatever words you want to use that are considered  
ephemeral.

4 Q. And when you say "ephemeral," what do you  
5 mean by that? 10:59:32

6           A.    Well, I mean temporary.  So that's all  
7   ephemeral means, is that it's retained for a  
8   certain period of time.  Sort of like Google and  
9   off the record.  Right?  It's temporary.

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10          Same with Wickr.  It's temporary.          10:59:44
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11 Q. Okay. And so HipChat was not?

12           A.   HipChat had a retention to it. But I  
13   just don't think people typically thought of  
14   HipChat as ephemeral, the way they think of  
15   Google Hangouts or Wickr. 10:59:58

16 Q. And did you discuss with anybody whether  
17 HipChat qualified as being ephemeral or not?

18           A.     I did not. It was just based on -- I  
19 don't know if I talked to anybody about that  
20 specifically. I really don't remember. But                 11:00:21  
21 just -- I just don't think people consider it to be  
22 ephemeral the way they do Google Hangouts with off  
23 the record or Wickr.

[illegible]

Page 63

1 Q. Did -- did Uber have an account and 11:01:39  
2 provide HipChat to -- to users?

3 A. Yes, yes.

4 Q. Okay. For uChat, you said there was a  
5 transition to uChat earlier this year; is that 11:01:51  
6 correct?

7 A. I did.

8 Q. Okay. And uChat is not listed on Tab 1?

9 A. Same reasons. Same answers.

10 Q. And so we have a clear record, what is -- 11:02:02  
11 what is the reason -- your understanding of why  
12 uChat wasn't included?

13 A. The same reason, that I don't think the  
14 way people think about ephemeral communications  
15 they considered uChat to be ephemeral. 11:02:16

16 Q. You've mentioned Google Hangouts,  
17 correct?

18 A. I did.

19 Q. Okay. And that does appear on  
20 Tab 1 occasionally. 11:02:53

21 What is your understanding of Hangouts?

22 A. That it's a chat application that has off  
23 the record and on the record, so it can be  
24 ephemeral. And that's the full extent of what I  
25 know. 11:03:12

1 purposes," were there specific business purposes it 11:28:53  
2 was --

3 A. I don't know if they were specific, but I  
4 know people on the security team used it.

5 Q. Was there any guidance provided to 11:29:02  
6 employees about when it was appropriate to use  
7 WickrMe for business purposes?

8 A. Well, there was -- there's guidance on  
9 when not to use it and -- but it doesn't just apply  
10 to WickrMe. It applies to all chat applications. 11:29:16  
11 And the guidance was not to use it to discuss  
12 topics that are subject to a litigation hold.

13 Q. And that was a guidance for all chat  
14 applications --

15 A. Yes. 11:29:31

16 Q. -- is that what you said?

17 And so that, that guidance to not use  
18 these chat applications for subjects covered by a  
19 litigation hold, that would really only come into  
20 play once there was some reason to have a 11:29:49  
21 litigation hold --

22 A. That is correct.

23 Q. -- correct?

24 Okay. So, for example, the -- Uber  
25 acquired Otto well before this lawsuit was filed. 11:29:59



Page 85

1 look at the bottom of Exhibit 9729 --

11:38:55

2 A. Okay.

3 Q. -- the paragraph that says, "Uber Chat  
4 Applications are the following" --

5 A. Yes.

11:39:05

6 Q. -- and does that list uChat and  
7 Google Hangouts as authorized chat applications?

8 A. Well, it -- it -- it identifies them in  
9 there, and then it talks about them on the next  
10 page. But, yes.

11:39:18

11 Q. And this paragraph says that, "All other  
12 chat applications, including but not limited to  
13 Wickr, Telegram, Signal, WeChat, and Snapchat, are  
14 not Uber Chat Applications and employees are  
15 prohibited from using these for business  
16 communications," correct?

11:39:28

17 A. That is correct as of the date this  
18 policy went into place in September, true.

19 Q. And prior to this date, employees were  
20 not prohibited from using any of -- any of those  
21 communications applications listed there?

11:39:41

22 A. Well, except for the fact they were  
23 prohibited from using them if they wanted to talk  
24 about things that were subject to a litigation  
25 hold.

11:39:53

Page 120

1 But, again, I don't know.

01:03:03

2 Q. And remind me: Your understanding that  
3 the security department is the only department that  
4 has used nonattributable devices, what is that  
5 based on?

01:03:11

6 A. It's based on my own personal knowledge,  
7 my discussion with Nick Gicinto and my discussion  
8 with Eric Meyhofer and -- and just my own  
9 knowledge.

10 Q. Would the security department track the  
11 use of nonattributable devices by other  
12 departments?

01:03:24

13 A. No, they would not.

14 Q. Okay.

15 A. I'm not --

01:03:34

16 Q. Sorry.

17 A. That was my fault. You go ahead.

18 Q. That's -- knowing the total use of  
19 nonattributable devices within the company is  
20 part -- not part of the umbrella of the security  
21 department's obligations or duties?

01:03:42

22 A. Well, that's -- that's a strange way to  
23 ask the question. So let me answer it this way: I  
24 wouldn't think Nick, who provided this information,  
25 would be analyzing that for other departments.

01:03:57

Page 132

1 department? 01:18:35

2 A. Yes.

3 Q. Do nonlawyers provide trainings or

4 guidance on when other employees should use

5 attorney-client privilege designations? 01:18:46

6 A. Not that aware of, but I didn't want to

7 be 100 percent on that it's only people in the

8 legal department. Because, for example, I

9 explained to you that Pam said that if she saw

10 somebody using the privilege in a way they 01:18:58

11 shouldn't be doing it, she would correct them.

12 Q. And did you investigate whether, for

13 example, department heads give trainings to their

14 employees about the use of the attorney-client

15 privilege? 01:19:09

16 A. I -- I did not.

17 Q. Does Uber instruct its employees to

18 include attorneys in the "to" line of emails so

19 that Uber can argue that the email is privileged?

20 MR. BRILLE: Objection. Form. 01:19:40

21 THE DEPONENT: That would be inconsistent

22 with our training.

23 Q. (By Ms. Roberts) And you are not aware

24 of whether individual employees have done that?

25 A. I am not. 01:19:47

Page 141

1 Craig Clark. 01:31:28

2 Q. He's cc'd on the email, correct?

3 A. Right. Yes.

4 Q. And Craig Clark is an attorney?

5 A. He is. 01:31:33

6 Q. And he was an internal Uber attorney,  
7 correct?

8 A. Yes.

9 Q. Okay. And is this consistent with --  
10 with Uber policy to add an attorney and label 01:31:42  
11 everything privileged?

12 MR. BRILLE: Objection. Form.

13 THE DEPONENT: Yeah. So I don't know the  
14 context of this document, so you are asking me on  
15 the fly. I would say, that's not consistent with 01:31:54  
16 our policy; and, again, why we have our outside  
17 counsel making the privilege calls, which is also  
18 how you -- just like the other documents you have  
19 shown me, this is how it got into your hands.

20 Q. (By Ms. Roberts) I'm going to hand you 01:32:32  
21 what was previously marked as Exhibit 9022.

22 Let me know when you are ready.

23 Have you seen this document before?

24 A. I have.

25 Q. When did you see this document? 01:33:03

1           A.    You know, I looked at it in preparing for           01:33:04  
2   the deposition, but I had seen it before.

3            0.    When did you see it before?

4           A. I don't recall, at some -- some point in  
5     the last year. 01:33:10

6 Q. Did you see it before Mr. Jacobs' letter  
7 was disclosed in this litigation?

8           A.    Yes.

9 Q. Okay. So you saw it outside of the  
10 context of what's going on in this case? 01:33:23

11           A.    As I said, yes.

12 Q. And if you could take a minute, but  
13 I'm -- I'm wondering if this is the same version  
14 that you saw.

15           A.     Okay. Let me look through and see.                         01:33:36

16 I think this is the same version I saw.

17 Q. Do you know if there are more than one  
18 version of this presentation?

19           A.    I don't think there are.  I can't -- I  
20   mean, I can't be 100 percent, but I really don't                   01:34:13  
21   think there are.  There is -- sorry.

22 Q. I will represent to you that in  
23 Mr. Jacobs' letter, he says that the presentation  
24 that he saw Mr. Clark give didn't have any Uber  
25 branding on it. 01:34:27

Page 143

1           Whereas, the first page of this exhibit           01:34:28  
2     does have Uber. So that's why I was asking if you  
3     were aware of other versions.

4           A.    Yeah. I -- you know, again, I wasn't  
5     responsible for the Jacobs investigation. But I --       01:34:40  
6     I -- you know, I just think he's wrong about that.

7           Q.    In what context did you see this  
8     presentation prior to today?

9           A.    It was in discussing with others in the  
10    department, giving training on the use of the           01:35:01  
11    attorney-client privilege. This was sent to me in  
12    the context of that. I think Craig forwarded it to  
13    Angela, and Angela sent it to me.

14          Q.    And what was discussed about training in  
15    the context of this presentation?                       01:35:15

16               MR. BRILLE: I'm going to object to the  
17    extent you are asking him to disclose privileged  
18    communications, but...

19               THE DEPONENT: Okay. I'm not going to  
20    disclose privileged communications --                   01:35:24

21               MR. BRILLE: Yeah.

22               THE DEPONENT: -- but just to make it  
23    easier, we discussed training.

24          Q.    (By Ms. Roberts) Was this presentation  
25    used in more than one training?                       01:35:31

Page 154

1 [REDACTED] 01:56:51

2 MR. BRILLE: Same objection.

3 THE DEPONENT: Yes. We were -- we were  
4 working on a project that people commonly referred  
5 to as [REDACTED]. It 01:57:03  
6 would take me a long time to explain it.

7 Do you have a specific question related  
8 to it?

9 Q. (By Ms. Roberts) Well, so when I asked  
10 you what [REDACTED] was sort of a few minutes ago -- 01:57:15

11 A. Yeah.

12 Q. -- and you said it's [REDACTED]

13 [REDACTED] --

14 A. Yes.

15 Q. -- I want to talk specifically about the 01:57:24

16 [REDACTED]

17 [REDACTED]

18 A. Okay.

19 Q. Can you describe for me what that project  
20 was? 01:57:35

21 A. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED] 01:57:54

Page 155

1 [REDACTED] [REDACTED]

2 [REDACTED]

3 [REDACTED]

4 Q. And has that [REDACTED] been

5 implemented? 01:58:16

6 A. No.

7 Q. Was it tested?

8 A. It -- what do you mean by tested?

9 Q. Well, let's take a step back.

10 When you say the project involved 01:58:26

11 [REDACTED]

12 [REDACTED]

13 [REDACTED]

14 A. I did say that.

15 Q. Okay. So what -- [REDACTED] [REDACTED]

16 [REDACTED]

17 [REDACTED]

18 MR. BRILLE: Objection. Form. Scope.

19 THE DEPONENT: [REDACTED]

20 [REDACTED] [REDACTED] [REDACTED]

21 [REDACTED]

22 [REDACTED]

23 [REDACTED] [REDACTED] [REDACTED]

24 [REDACTED] [REDACTED]

25 [REDACTED] 01:59:24



1           A.    All right.  Andrea, I'm going to help you   02:00:24  
2 out here.

3                   MR. BRILLE:  Same objections.

4                   THE DEPONENT:  [REDACTED]

[REDACTED] [REDACTED] [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED] [REDACTED] [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED] [REDACTED] [REDACTED]

[REDACTED]

[REDACTED] [REDACTED] [REDACTED] [REDACTED]

[REDACTED] [REDACTED]

[REDACTED] [REDACTED]

[REDACTED]

[REDACTED] [REDACTED]

[REDACTED] [REDACTED]

[REDACTED]

[REDACTED] [REDACTED] [REDACTED] [REDACTED]

[REDACTED] [REDACTED]

[REDACTED] [REDACTED]

[REDACTED] [REDACTED] 02:01:15

1 [REDACTED] [REDACTED]

2 [REDACTED]

3 Q. (By Ms. Roberts) [REDACTED] [REDACTED]

4 [REDACTED]

5 MR. BRILLE: Yeah, I'm going to -- I'm 02:01:27

6 just going to caution you to not disclose any

7 privileged information. I don't know if you

8 consider it privileged. I'm just going to caution

9 you.

10 THE DEPONENT: I don't consider this 02:01:35

11 privileged.

12 MR. BRILLE: Okay.

13 THE DEPONENT: [REDACTED]

14 [REDACTED] [REDACTED]

15 [REDACTED] [REDACTED]

16 [REDACTED] [REDACTED]

17 [REDACTED]

18 [REDACTED]

19 [REDACTED]

20 Q. (By Ms. Roberts) [REDACTED] [REDACTED] [REDACTED]

21 [REDACTED]

22 [REDACTED] [REDACTED]

23 [REDACTED]

24 [REDACTED] [REDACTED]

25 [REDACTED]

02:02:05

Page 159

1 Q. I got it right?

02:02:06

2 A. That's correct. You got it right. Good  
3 work.

4 Q. Thank you.

5 Were any law firms involved in the  
6 analysis about whether to implement this [REDACTED]

02:02:15

7 [REDACTED]?

8 A. Right. So you have read the documents.

9 [REDACTED]

10 [REDACTED]

02:02:30

11 Q. And when did Uber start considering  
12 the -- what we are calling the [REDACTED]?

13 A. You know, that's before my time. But my  
14 best estimation would be in the summer/fall  
15 of 2016, but prior to my arrival at Uber.

02:02:55

16 Q. And I know you said this at the  
17 beginning, but you started in late 2016?

18 A. Yeah, November 7th of 2016.

19 Q. Okay. Then you said [REDACTED]

20 [REDACTED]

21 [REDACTED]

22 Were there law firms that were not  
23 authorized that provided the advice?

24 A. Any other law firm was not authorized.

25 Q. [REDACTED]

02:03:25

1



24           A.    Yes.

25 Q. Okay. What's -- what's his background?

02:04:21



\_\_\_\_\_



24 Do you know why Uber was



02:06:52

Page 163

1 MR. BRILLE: Objection. Form. Scope.

02:06:54

2 THE DEPONENT: [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

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[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

02:08:03

02:08:07

1

2

MR. BRILLE: Objection. Form. Scope.

3

THE DEPONENT: Quite the opposite.

4

Q. (By Ms. Roberts) Okay.

5

A.

█

█

█

9

Q. Okay.

10

█

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█

█

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█

█

█

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█

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█

02:08:57



1 [REDACTED] [REDACTED]

2 [REDACTED]

3 MR. BRILLE: Objection. Form. Scope.

4 THE DEPONENT: We had ideas about it, but

5 no final decision had been made. 02:09:11

6 Q. (By Ms. Roberts) [REDACTED] [REDACTED]

7 [REDACTED]

8 [REDACTED]

9 [REDACTED]

10 [REDACTED] [REDACTED]

11 [REDACTED] [REDACTED]

12 [REDACTED] [REDACTED]

13 [REDACTED] [REDACTED]

14 [REDACTED] [REDACTED]

15 [REDACTED] [REDACTED] [REDACTED]

16 [REDACTED]

17 [REDACTED] [REDACTED]

18 [REDACTED]

19 [REDACTED]

20 [REDACTED] [REDACTED]

21 [REDACTED]

22 [REDACTED] [REDACTED]

23 MR. BRILLE: Objection. Form. Scope.

24 [REDACTED] [REDACTED]

[REDACTED] [REDACTED] [REDACTED] 02:10:09

1           A.     Right.

02:31:38

2 Q. -- dated November 16th, 2016?

3           A.     Right.

4 Q. Do you see at the -- the first line there  
5 says, "A number of ATG users recently lost email 02:31:42  
6 older than 180 days. A restore is in progress"?

7           A.    I see that.

8 Q. Okay. Do you have any information about  
9 that?

10           A.    I don't.

02:31:51

11 MS. ROBERTS: Why don't we take a break.

12 I'm close to done. I just need to organize my  
13 notes here.

14 THE VIDEOGRAPHER: We are off the record  
15 at 2:32 p.m. 02:32:16

16 (Recess taken.)

17 THE VIDEOGRAPHER: We are back on the  
18 record at 2:39 p.m.

19 Q. (By Ms. Roberts) Going back to beginning  
20 of the day when we talked about your discussions 02:39:39  
21 with Mr. Meyhofer to prepare for your testimony --

22           A.     Sure.

23 Q. -- you said you talked to him about  
24 nonattributable devices and ephemeral  
25 communications. 02:39:49

Page 182

1           Did you discuss with him the use of           02:39:49  
2   attorney-client privilege designations by ATG  
3   members?

4           A.    I mean, yes, we talked about how the  
5   attorney-client privilege should be used, and he           02:40:05  
6   told me what his thoughts were on that.

7           Q.    Okay. And can you --

8           A.    And -- and we also talked about -- your  
9   sort of sparking a memory here. I think we also  
10   did talk about the use of attorney-client privilege       02:40:21  
11   as it related to the Waymo case.

12           And I'm trying to remember. Yeah, we did  
13   talk about the attorney-client privilege and how --  
14   how it should be used.

15           Q.    And what did Mr. Meyhofer tell you?       02:40:43

16           A.    He relayed to me that it was important to  
17   use it only when appropriate, only when seeking  
18   legal advice from a lawyer.

19           Q.    And did you ask him about his personal  
20   use of the attorney-client privilege designation or       02:40:58  
21   the use within the group?

22           A.    The discussion was more his  
23   understanding, and as the leader of ATG, his  
24   expectations of the people that report to him,  
25   which is everybody in ATG. That should be used           02:41:11

1 only when appropriate.

02:41:14

2 Q. Did you ask him about any training that's  
3 been provided to the ATG group about  
4 attorney-client privilege designations?

5           A.    I didn't because I don't -- I don't know  
6   that he would know about that.  I did not.

02:41:23

7 Q. If we go back to Topic 2 -- and I don't  
8 know if you want to get it in front of you or  
9 not --

10           A.    Right.

02:41:42

11 Q. -- but it asks about defendants' use  
12 of -- use of methods or strategies to conceal facts  
13 from discovery by external parties and litigation  
14 or government investigations.

15           And then it lists, including improper  
16 attorney-client and other privileged designations,  
17 ephemeral or encrypted communications,  
18 nonattributable devices or anonymous servers.

02:41:50

19 In preparing for your testimony today,  
20 did you ask anybody about other methods or  
21 strategies to conceal facts from discovery by  
22 external parties?

02:42:07

23           A.    I focused on the ones you identified.

24 Q. So in your discussions with Mr. Meyhofer,  
25 you didn't ask him whether there are other methods

02:42:22

1 or strategies that the ATG group uses to conceal 02:42:25  
2 facts from discovery by external parties?

3 A. I didn't feel the need to ask him because  
4 it was clear in my discussion with him that any  
5 attempt to conceal information from discovery in 02:42:36  
6 litigation was unacceptable.

7 Q. Who said that, you or him?

8 A. That's my summary of our discussion. I  
9 didn't feel the need to ask him, was there anything  
10 else other than the three things identified in your 02:42:50  
11 notice. Because in whatever words he used, he made  
12 it clear to me that doing so would be unacceptable.

13 Q. So he told --

14 A. Regardless of methodology.

15 Q. And when you spoke with Mr. Gicinto, did 02:43:00  
16 you ask him about the use of methods or strategies  
17 to conceal facts from discovery other than those  
18 specifically outlined in the topic?

19 A. Not in way you are phrasing it, no. I  
20 don't recall that coming up. 02:43:15

21 Q. I'm sorry, I don't understand what you're  
22 saying, not in -- not in the way you're phrasing  
23 it.

24 A. I didn't discuss that topic with him the  
25 way you phrased it in your question. 02:43:23

1 I, Rebecca L. Romano, a Certified Shorthand  
2 Reporter of the State of California, do hereby  
3 certify:

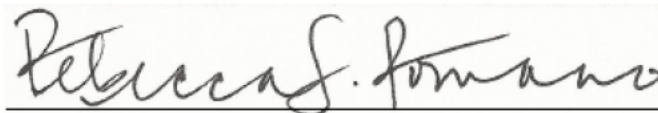
4 That the foregoing proceedings were taken  
5 before me at the time and place herein set forth;  
6 that any witnesses in the foregoing proceedings,  
7 prior to testifying, were administered an oath;  
8 that a record of the proceedings was made by me  
9 using machine shorthand which was thereafter  
10 transcribed under my direction; that the foregoing  
11 transcript is true record of the testimony given.

12 Further, that if the foregoing pertains to the  
13 original transcript of a deposition in a Federal  
14 Case, before completion of the proceedings, review  
15 of the transcript [ ] was [X] was not requested.

16 I further certify I am neither financially  
17 interested in the action nor a relative or employee  
18 of any attorney or any party to this action.

19 IN WITNESS WHEREOF, I have this date  
20 subscribed my name.

21 Dated: December 22, 2017

22  
23 

24 Rebecca L. Romano, RPR,  
25 CSR. No 12546